

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Bryan P. Couch  
Connell Foley LLP  
85 Livingston Avenue  
Roseland, New Jersey 07068  
(973) 535-0500  
Attorneys for Plaintiff, Days Inns Worldwide, Inc.

DAYS INNS WORLDWIDE, INC., a  
Delaware Corporation, f/k/a DAYS INNS OF  
AMERICA, INC.,

Plaintiff,

v.

KRISHAN CORPORATION, a California  
Corporation; and PANKAJ K. PATEL, an  
individual,

Defendants.

Civil Action No. 07cv4753(PKC)

**AFFIDAVIT OF BRYAN P. COUCH IN  
SUPPORT OF REQUEST FOR ENTRY  
OF FINAL JUDGMENT  
BY DEFAULT**

STATE OF NEW JERSEY     )  
                                      )SS:  
COUNTY OF MORRIS        )

BRYAN P. COUCH, being duly sworn, according to law, upon his oath, deposes and  
says:

1. I am a member of the Bar of this Court and am an associate with the firm of  
Connell Foley LLP, attorneys for plaintiff, Days Inns Worldwide, Inc. ("DIW"), in the above  
matter. As such, I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 55.1 and 55.2(a) of the Civil Rules of the  
Southern District of New York, in support of DIW's application for the entry of a default  
judgment against defendants, Krishan Corporation ("Krishan") and Pankaj K. Patel ("Patel").

3. This action was commenced on June 4, 2007 by the filing of the Summons and Complaint.

4. This is an action to recover Recurring fees owed by defendants to DIW for breach of the License Agreement between the parties.

5. Jurisdiction of the subjection matter of this action is based on this Court's diversity jurisdiction pursuant to 28 U.S.C. § 1332 inasmuch as the plaintiff and the defendants are citizens of different states and the amount in controversy in this matter, exclusive of interest and costs, exceeds the sum of \$75,00.00.

6. A copy of the Summons and Complaint was served on defendants Kirshan and Patel on July 16, 2007 by personal service on John Patel, brother of Pankaj K. Patel, at Patel's dwelling house or usual place of abode, and proof of such service was filed on September 12, 2007.

7. The defendants have not answered the Complaint and the time for the defendants to answer the Complaint has expired.

8. Default was duly noted by the Clerk of the Court against Krishan and Patel on October 10, 2007 for their failure to plead or otherwise defend in this action. A true copy of the Clerk's entry of default is attached hereto as Exhibit A.

9. By letter dated October 17, 2007, DIW served a copy of said entry of default upon the defendants herein. A true and correct copy of DIW's October 17, 2007 correspondence is attached hereto as Exhibit B.

10. This action seeks judgment for the liquidated amount of \$154,229.13, inclusive of interest, as of October 22, 2007, as shown by the annexed Certification of Robert Spence, which is justly due and owing, and no part of which has been paid except as therein set forth.

11. In addition, DIW has incurred attorneys' fees in connection with this matter in the total amount of \$1,560.15, which were charged by the firm of Connell Foley LLP.

12. The specific legal services provided by the firm of Connell Foley LLP included preliminary consultations with the client, review of relevant documents, researching potential causes of action, drafting, revising, and finalizing the complaint, ascertaining the identities and location of the defendants, arranging for service of process, and preparation and submission of the application for entry of a default judgment. (If the Court requires descriptive time entries from the billing records, DIW would request an *in camera* review to accommodate attorney-client privilege concerns).

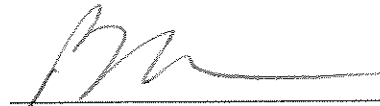
13. DIW has incurred expenses in connection with this matter in the amount of \$458.18, which includes filing fees, reproduction expenses, telephone charges, services of process fees, postage and overnight courier expenses.

14. This claim is not based on a writ of attachment, replevin, or *capias ad respondendum* nor is it based directly or indirectly upon the sale of a chattel which has been repossessed peaceably by legal process.

15. Pursuant to Local Civil Rule 55.1, Krishan, a corporation, is a legal entity and, therefore, cannot be in the military service of the United States.

16. Patel is not an infant or otherwise incompetent. The Department of Defense has verified that Patel is not presently engaged in the military service of the United States, or in the military service of any of its allied nations. A true copy of the verification is attached hereto as Exhibit C.

WHEREFORE, DIW requests the entry of the annexed Judgment against defendants.

A handwritten signature in black ink, appearing to be 'Bryan P. Couch', written over a horizontal line.

Bryan P. Couch

Dated: October 25, 2007

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Matthew W. Bauer  
Connell Foley LLP  
85 Livingston Avenue  
Roseland, New Jersey 07068  
(973) 535-0500  
Attorneys for Plaintiff, Days Inns Worldwide, Inc.

DAYS INNS WORLDWIDE, INC., a  
Delaware Corporation, f/k/a DAYS INNS OF  
AMERICA, INC.,

Plaintiff,

v.

KRISHAN CORPORATION, a California  
Corporation; and PANKAJ K. PATEL, an  
individual,

Defendants.

Civil Action No. 07cv4753(PKC)

**CLERK'S CERTIFICATION**

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on June 4, 2007 with the filing of a summons and complaint, a copy of the summons and complaint was served on defendant by serving John Patel, brother of Pankaj K. Patel, at defendant Pankaj K. Patel's dwelling home or usual place abode, and proof of such service thereof was filed on September 12, 2007.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise moved with respect to the complaint herein. The default of the defendant is hereby noted.

Dated: NY, New York  
October 10, 2007

J. MICHAEL MCMAHON  
Clerk of the Court

By: [Signature]  
Deputy Clerk

# **EXHIBIT B**

**CONNELL FOLEY LLP**  
**ATTORNEYS AT LAW**

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THOMAS M. SCUDERI\*

\*ALSO ADMITTED IN NEW YORK  
\*ALSO ADMITTED IN PENNSYLVANIA  
-ONLY ADMITTED IN NEW YORK

WRITER'S DIRECT DIAL

October 17, 2007

PLEASE REPLY TO ROSELAND, N.J.

Pankaj K. Patel  
Krishan Corporation  
2460 Fontaine Road  
San Jose, CA 95121

**Re: Days Inns Worldwide, Inc. v. Krishan Corporation, et. al.**  
**Civil Action No. 07cv4753(PKC)**

Dear Mr. Patel:

Enclosed please find a copy of the Clerk's Certification entering default on October 10, 2007 in the above matter.

Please be guided accordingly.

Very truly yours,

  
Sarah B. Blumberg

SBB:dk  
Enclosure



# **EXHIBIT C**

Department of Defense Manpower Data Center

SEP-19-2007 12:11:01



Military Status Report  
Pursuant to the Servicemembers Civil Relief Act

← Last Name	First/Middle	Begin Date	Active Duty Status	Service/Agency
PATEL	Pankaj K.	Based on the information you have furnished, the DMDC does not possess any information indicating that the individual is currently on active duty.		

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Military.

*Mary M. Snavely-Dixon*

Mary M. Snavely-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The Department of Defense strongly supports the enforcement of the Servicemembers Civil Relief Act [50 USCS Appx. §§ 501 et seq] (SCRA) (formerly the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's active duty status by contacting that person's Military Service via the "defenseink.mil" URL provided below. If you have evidence the person is on active-duty and you fail to obtain this additional Military Service verification, provisions of the SCRA may be invoked against you.

If you obtain further information about the person ( e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects current active duty status only. For historical information, please contact the Military Service SCRA points-of-contact.

See: <http://www.defenselink.mil/faq/pis/PC09SLDR.html>

WARNING: This certificate was provided based on a name and Social Security number (SSN) provided

by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

*Report ID: NWRFFYXNQN*